

**NO. 02-14-00213-CV  
NO. 02-14-00015-CV**

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**IN THE COURT OF APPEALS FOR THE  
SECOND DISTRICT COURT OF TEXAS  
FORT WORTH, TEXAS**

FILED IN  
2nd COURT OF APPEALS  
FORT WORTH, TEXAS  
11/12/2014 2:11:17 PM  
DEBRA SPISAK  
Clerk

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**IN RE KELLY HALL & JOHN CROWDER  
Relators**

**AND**

**KELLY HALL; JOHN C. CROWDER, INDIVIDUALLY AND IN HIS  
CAPACITY AS TRUSTEE FOR EMILY CROWDER TRUST AND THE JOHN  
CROWDER III TRUST; MICHAEL HERRICK; TEXAS WINGS, INC.; AND  
TWI XVIII, INC.,  
Appellants**

**V.**

**CARROLL FAMILY INVESTMENTS, LTD.  
Appellee.**

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Original Proceeding and appeal from the 16<sup>th</sup> Judicial District Court, Denton County  
Trial Court Cause No. DC-2012-10921-16 – The Honorable Sherry Shipman,  
Presiding

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**REAL PARTY IN INTEREST'S AND APPELLEE'S MOTION TO DISMISS**

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## **IDENTITY OF PARTIES AND COUNSEL**

### **Relators**

Kelly Hall  
John Crowder

### **Counsel**

William L. Wolf  
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State Bar Card No. 24065032  
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### **Real Party in Interest**

Carroll Family Investments, Ltd.

### **Counsel**

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&  
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### **Respondent**

The Honorable Sherry Shipman  
16<sup>th</sup> Judicial District Court  
Denton County, Texas

16<sup>th</sup> Judicial District Court  
Denton County Courts Building  
1450 E. McKinney, Third Floor  
Denton, Texas 76209  
Sherri Adelstein, Denton County District Clerk  
(940) 349-2200  
Gayle Clift, Court Reporter  
Court Telephone: (940) 349-2310  
Trial Court Cause No. 2012-10921-16

## **MOTION TO DISMISS**

COMES NOW Carroll Family Investments, Ltd., Real Party in Interest and Appellee, and files this Motion to Dismiss and in support thereof would respectfully show the Court as follows:

1. Carroll Family Investments, Ltd (hereinafter CFI) and Relators and Appellants' herein (Kelly Hall and John Crowder) and the other Defendants who appeared in the underlying suit pending in the 16<sup>th</sup> Judicial District Court, Denton County, Trial Court Cause No. DC-2012-10921-16 have reached a settlement. As part of that settlement, the parties filed and the trial court entered an agreed order of dismissal without prejudice. A true and correct copy of this agreed order is attached hereto as Exhibit "A."

2. As a result of the parties' settlement agreement and the trial court's agreed order of dismissal, both the mandamus proceeding and interlocutory appeal pending under the above referenced appellate cause numbers are now moot. Accordingly, CFI requests this Honorable Court to dismiss these proceedings and tax costs against the party incurring same.

WHEREFORE, PREMISES CONSIDERED, the Real Party in Interest and Appellee prays that the Court enter an order dismissing the above referenced appellate proceedings and taxing costs against the party incurring same.

Respectfully submitted:

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BY: /s/ Samuel B. Burke  
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**CERTIFICATE OF CONFERENCE**

I certify that I have conferred with counsel for Relators and Appellants regarding the foregoing Motion to Dismiss and they communicated to me that they did not oppose the relief requested.

/s/ Samuel B. Burke

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing Motion to Dismiss was served on all counsel of record this 12<sup>TH</sup> day of November, 2014 in accordance with the Texas Rules of Appellate Procedure.

/s/ Samuel B. Burke

# EXHIBIT "A"

HTR.21518

CAUSE NO. 2012-10921-16

CARROLL FAMILY INVESTMENTS,  
LTD., successor by merger to  
CHRISTOPHER S. CARROLL  
NUMBER 1, LTD.,  
Plaintiff,

VS.

HOOTERS OF AMERICA, LLC.;  
HOA HOLDINGS, LLC;  
KELLY HALL; JOHN N. CROWDER,  
Individually and as a trustee for the  
EMILY CROWDER TRUST and the  
JOHN CROWDER III TRUST;  
ROBERT CROWDER and ROBERT  
BRASWELL as a trustees for the EMILY  
CROWDER TRUST and the JOHN  
CROWDER III TRUST; SCOTT  
WILKINSON; MICHAEL HERRICK;  
TWI XVIII, INC.; and TEXAS WINGS,  
INC.,

Defendants.

IN THE DISTRICT COURT

16<sup>th</sup> JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

FILED  
DENTON COUNTY, TEXAS  
2014 NOV -5 AM 9:52  
SHERRI ADELSTEIN  
DISTRICT CLERK  
BY \_\_\_\_\_ DEPUTY

AGREED FINAL ORDER OF DISMISSAL WITHOUT PREJUDICE

CAME ON TO BE HEARD the above-styled and numbered cause and came all of the parties to said cause, by and through their attorneys of record, and announced to the Court that all matters of fact and things in controversy in this cause have been resolved and that they are in agreement in moving and move that the Court enter a final order of dismissal without prejudice providing that: (1) all claims and causes of action asserted in this cause are dismissed without prejudice to the refiling of same; (2) all parties shall bear and be responsible for their own attorneys' fees and costs of court; and (3) all costs of court are taxed against the party that incurred them. The Court finds that it should so order.

IT IS, THEREFORE, ORDERED, ADJUDGED, and DECREED that all claims and causes of action asserted in this cause are DISMISSED without prejudice to the refiling of same.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that all parties shall bear and be responsible for their own attorneys' fees and costs of court.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that all costs of court are taxed against the party that incurred them.


The Court finds that this Agreed Final Order of Dismissal Without Prejudice disposes of all claims and causes of action that were pending in this cause. Therefore, this Agreed Final Order of Dismissal Without Prejudice is the final order of the Court in this cause.


SIGNED this 5th day of November 2014.

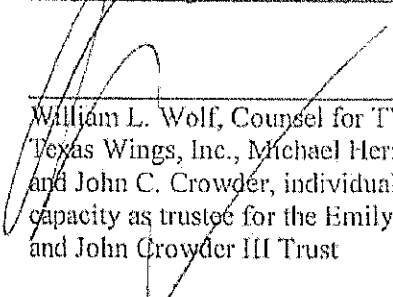
  
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JUDGE PRESIDING



AGREED AS TO FORM ONLY:

  
\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_  
William L. Wolf, Counsel for TWI XVIII, Inc.,  
Texas Wings, Inc., Michael Herrick, Kelly Hall,  
and John C. Crowder, individually and in his  
capacity as trustee for the Emily Crowder Trust  
and John Crowder III Trust

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